

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**ECHOSTAR BROADCASTING
CORPORATION**

Application for 60-day Special
Temporary Authority to perform TT&C
and Feeder-link Operations with
EchoStar 15 at 44.9° W.L.

File No. SES-STA-_____
Call Sign E070014

File No. SES-STA-_____
Call Sign E080007

File No. SES-STA-_____
Call Sign E980005

File No. SES-STA-_____
Call Sign E020248

File No. SES-STA-_____
Call Sign E080120

APPLICATION FOR SPECIAL TEMPORARY AUTHORITY

EchoStar Broadcasting Corporation (“EBC,” and collectively with its affiliates, “EchoStar”) hereby requests 60-day special temporary authority (“STA”), pursuant to Section 25.120(b)(3) of the Commission’s Rules, 47 C.F.R. § 25.120(b)(4), to use five of its earth stations (Call Signs E070014, E080007, E980005, E020248, and E08120) to provide telemetry, tracking, and control (“TT&C”) and feeder-link operations with the EchoStar 15¹ Broadcasting-Satellite Service (“BSS”) satellite at the 44.9° W.L. orbital location.² EBC has already filed a

¹ Concurrent with this application, EchoStar is filing an application for satellite STA to relocate EchoStar 15 to, and operate it at, 44.9° W.L.

² EBC requests STA to use all frequencies currently authorized for each earth station. *See* Call Sign E070014, File No. SES-MFS-20120315-00269 (granted July 5, 2012); Call Sign E080007, File Nos. SES-MFS-20110419-00464, SES-AFS-20120214-00170 (granted Feb. 28, 2012); Call Sign E980005, File No. SES-MFS-20120315-00270 (granted June 29, 2012) (and with the amendment proposed by File No. SES-MFS-20110627-00739); Call Sign E020248, File No. SES-MOD-20110608-00671 (granted July 29, 2011); Call Sign E080120, File No. SES-MFS-

request to modify its authority for each of these earth stations to perform TT&C and feeder-link operations with the satellite at 44.9° W.L.³

I. BACKGROUND

On July 10, 2010, EchoStar successfully launched EchoStar 15 to 61.55° W.L.⁴ EchoStar 15 became fully operational on August 5, 2010.⁵ Since that time, EchoStar 15 has effectively replaced the EchoStar 3 satellite at the nominal 61.5° W.L. orbital location, providing Direct Broadcast Satellite (“DBS”) capacity for EchoStar’s customer, DISH Network L.L.C., to provide multichannel video programming distribution service to U.S. consumers.⁶ EchoStar had originally intended to relocate EchoStar 15 once relieved of duty at 61.5° W.L. by the EchoStar 16 satellite, which had been scheduled to launch in September 2012. But as a result of delays in the launch of EchoStar 16 (due to the Proton M/Briz M launch vehicle failure) and the need to continue service to U.S. customers from 61.5° W.L. while inaugurating EchoStar 15’s service from 44.9° W.L., EchoStar recently requested STA to operate the QuetzSat-1 satellite at 61.5° W.L. to free up EchoStar 15 for service at 44.9° W.L.⁷ QuetzSat-1 will be able to replace

20111101-01284 (granted Dec. 19, 2011) (and with the amendment proposed by File No. SES-MFS-20120906-00798).

³ See Call Sign E070014, File No. SES-MFS-20120815-00748 (filed Aug. 15, 2012); Call Sign E080007, File No. SES-MFS-20120815-00747 (filed Aug. 15, 2012); Call Sign E980005, File No. SES-MFS-20120815-00749 (filed Aug. 15, 2012); Call Sign E020248, File No. SES-MFS-20120815-00750 (filed Aug. 15, 2012); Call Sign E080120, File No. SES-MFS-20120906-00798 (filed Sept. 6, 2012).

⁴ See Peter B. de Selding, *Proton-M Rocket Lofts EchoStar 15 Satellite*, Space News (July 1, 2010), <http://www.spacenews.com/launch/100712-ils-proton-successfully-lofts-echostar.html>.

⁵ See Letter from Christopher R. Bjornson, Counsel for DISH Operating LLC, to Robert Nelson, Chief of the Satellite Division, International Bureau, FCC, *filed in* File No. SAT-LOA-20100310-00043.

⁶ EchoStar 15 is currently operating under special temporary authority at 61.65° W.L. *Grant Stamp*, File No. SAT-STA-20120711-00115 (granted July 18, 2012).

⁷ See File No. SES-STA-20120926-00852 (filed Sept. 26, 2012).

EchoStar 15 at the 61.5° W.L. nominal orbital location and ensure the continued full utilization of the DBS spectrum at that orbital location.

With EchoStar 15 freed for service elsewhere, EchoStar has an opportunity to use that satellite to provide service to Brazil from the nominal 45° W.L. orbital location pursuant to Brazilian authorization. Anatel has agreed to permit EchoStar 15 to serve Brazil pursuant to that authorization. Accordingly, EchoStar will adjust the downlink pattern of EchoStar 15's payload to provide coverage over Brazil and will operate the satellite at 44.9° W.L. during an interim period while a purpose-built satellite is pursued, consistent with the underlying authorization.

II. THIS REQUEST IS IN THE PUBLIC INTEREST, IS CONSISTENT WITH PAST PRECEDENT, AND WILL NOT CAUSE HARMFUL INTERFERENCE

The Commission has a long-standing policy of granting STA where such authorization will serve the public interest, convenience, and necessity, and will not cause harmful interference.⁸ The requested relocation meets both of these tests. It has long been the Commission's policy that the public interest is generally furthered by leaving fleet management decisions to satellite operators. As the International Bureau has explained:

[T]he Commission attempts, when possible, to leave spacecraft design decisions to the space station licensee because the licensee is in a better position to determine how to tailor its system to meet the particular needs of its customers. Consequently the Commission will generally grant a licensee's request to modify its system, provided there are no compelling countervailing public interest considerations.⁹

As a result, the Commission has routinely authorized "satellite operators to rearrange satellites in their fleet to reflect business and customer considerations where no public interest

⁸ See, e.g., Newcomb Communications, Inc., *Order and Authorization*, 8 FCC Rcd. 3631, 3633 (1993); Columbia Communications Corp., *Order*, 11 FCC Rcd. 8639, 8640 (1996); American Telephone & Telegraph Co., *Order*, 8 FCC Rcd. 8742 (1993).

⁹ AMSC Subsidiary Corp., *Order and Authorization*, 13 FCC Rcd. 12316 at 12318, ¶ 8 (1998).

factors are adversely affected.”¹⁰ This includes permitting fleet reconfigurations designed to meet demands for capacity outside the United States.¹¹ Indeed, only a few months ago, the Commission granted two modification requests to operate U.S.-licensed satellites pursuant to non-U.S. ITU filings and assignments.¹² Here, aside from the general public interest benefits described above, grant of this application will enable an American company to leverage its resources to expand its service offering to Brazil. This will provide another potential avenue for U.S. programming to reach an audience in South America.

At the same time, there are no countervailing public interest considerations. No customers will be negatively affected by the relocation, as the service currently provided from EchoStar 15 will first be transferred to QuetzSat-1, once that satellite arrives at the nominal 61.5° W.L. orbital location and prior to the departure of EchoStar 15. Nor will the grant of the requested modification cause harmful interference to any authorized user of the spectrum. During EchoStar 15’s operations at 44.9° W.L., EchoStar will follow standard industry practices for coordination of TT&C transmission to ensure that operations do not cause harmful interference to any nearby satellite.

¹⁰ See SES Americom, Inc., *Order and Authorization*, 21 FCC Rcd. 3430, 3433 ¶ 8 (2006) (citing Amendment of the Commission’s Space Station Licensing Rules and Policies, *Second Report and Order*, 18 FCC Rcd. 12507, 12509 ¶ 7 (2003)).

¹¹ See Intelsat North America LLC, *Stamp Grant*, File No. SAT-T/C-20100112-00009 (granted July 30, 2010); PanAmSat Licensee Corp., *Stamp Grant*, File No. SAT-MOD-20080225-00051 (granted July 22, 2008).

¹² SES Americom, Inc., *Stamp Grant*, File No. SAT-MOD-20111025-00209 (granted Feb. 24, 2012) (requesting modification of its authorization for AMC-2 to provide service exclusively into Sweden pursuant to a Swedish ITU filing); Intelsat License LLC, *Stamp Grant*, File No. SAT-MOD-20110420-00073 (granted Mar. 3, 2012) (requesting modification of its authorization for the Galaxy 26 satellite to provide service to the Middle East pursuant to a Turkish ITU filing).

As the administration under whose frequency reservation EchoStar 15 will be operating, Brazil is the responsible administration for coordination. Appendix 1 of the referenced Technical Appendix demonstrates that EchoStar 15 can operate at 44.9° W.L. without causing unacceptable interference to any Region 2 Plan network as well as to any operational BSS network, and that it can operate without exceeding the power-flux density limits under Appendix 30/30A for any FSS satellites operating in Regions 1 or 2. Further, while Holland and Russia have filed modifications for the ITU Region 2 BSS Plan for satellite systems within 9 degrees of 44.9° W.L., EchoStar can find no evidence that these satellite systems are under construction and progressing towards launch.

EchoStar will be operating the EchoStar 15 satellite at 44.9° W.L. pursuant to Brazil's ITU AP30/30A Region 2 BSS Plan allotment and subsequently filed plan modifications for the nominal 45° W.L. orbital location and pursuant to Section 4.4 of the ITU Radio Regulations. EchoStar has obtained all necessary authority from Anatel.¹³

III. OPERATIONAL PARAMETERS

During operation of EchoStar 15 at 44.9° W.L., EBC will communicate with the satellite subject to the following conditions:

1. TT&C and feeder link operations at 44.9° W.L. shall be on a non-harmful interference basis, meaning that EchoStar 15 shall not cause interference to, and shall not claim protections from, interference caused to it by any other lawfully operating satellites.
2. In the event that any harmful interference is caused as a result of TT&C or feeder link operations while the satellite is at 44.9° W.L., EchoStar 15 shall cease operations immediately upon notification of such interference and the Commission will be informed immediately, in writing, of such event.

¹³ See File No. SAT-MOD-20120814-00130, Narrative 5-6 (filed Aug. 14, 2012).

IV. WAIVER PURSUANT TO SECTION 304 OF THE ACT

In accordance with Section 304 of the Communications Act of 1934, as amended, 47 U.S.C. § 304, EBC hereby waives any claim to the use of any particular frequency or use of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

V. CONCLUSION

For the foregoing reasons, EBC respectfully requests grant of the requested 60-day STA to perform TT&C and feeder-link operations with EchoStar 15 at the 44.9° W.L. orbital location.

Respectfully submitted,

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